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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FERGIE RIVERA-ROMERO,
Administratrix of the Estate of
ELIZABETH RIVERA, deceased, and
FERGIE RIVERA-ROMERO and
ANTHONY RIVERA, individually,

Plaintiffs,

v.

JANICE TAITEL, M.D., VANESSA
SAMEDI, M.D., ZUFALL HEALTH
CENTER, ZHC DOVER MEDICAL,
WILLIAM CARLE, M.D., JULIA
WALTER, R.N., KEITH ZDZIARSKI,
R.N., HACKETTSTOWN MEDICAL
CENTER, JOHN DOES 1-10, ABC
CORPORATIONS 1-10, JOHN DOES
1-10 (fictitious names representing
unknown individuals), and ABC
CORPORATIONS 1-10 (fictitious
names representing unknown entities),

Defendants.

NOTICE OF REMOVAL

CIVIL ACTION NO.

TO: Clerk
Morris County Superior Court
56 Washington Street
Morristown, New Jersey 07960

Sean Buckley, Esq.
Buckley Theroux Kline & Cooley
Counsel for Defendant
William Carle, M.D.

Ernest P. Fronzuto, Esq.
Fronzuto Law Group
200 Browertown Road
Woodland Park, New Jersey 07424
Counsel for Plaintiffs

Peter A. Marra, Esq.
Schenck Price Smith & King
Counsel for Defendants Hackettstown
Medical Center and Julia Walter, R.N.

PLEASE TAKE NOTICE that this case, previously pending in the New Jersey Superior Court, Morris County, Docket No. MRS-L-000425-20, is now removed to the United States District Court for the District of New Jersey, pursuant to 42 U.S.C. § 233(c). The United States of America is substituted for removing Defendants Janice Taitel, M.D., Vanessa Samedi, M.D., and Zufall Health Center, Inc. (collectively “Defendants”) under 42 U.S.C. § 233(c) and (g), with respect to all of the claims set forth against them in the Complaint. The United States of America, by and through its undersigned attorneys, respectfully states the following in support of the removal of this matter:

1. On February 20, 2020, Plaintiffs initiated this action in New Jersey Superior Court, Morris County. *See Exhibit A* (State Court Docket). Service of process has not been effected upon the United States of America in the manner specified in and required under Federal Rule of Civil Procedure 4(i).

2. In the State Court Action, Plaintiffs seek damages from Defendants for personal injuries allegedly sustained as the direct and proximate result of

Defendants' alleged negligence, *i.e.*, medical malpractice. *See Exhibit B* (State Court Complaint).

3. On June 1, 2020, the U.S. Department of Health and Human Services determined that Defendants were covered by the Federal Tort Claims Act ("FTCA") since January 1, 2018, for purposes of this action. *See Exhibit C* (Declaration of Meredith Torres dated June 1, 2020 with exhibit). At all times relevant in the Complaint, Defendants have been deemed as Public Health Service employees under 42 U.S.C. § 233(g). *See Exhibit C*, ¶ 5.

4. Sections 233(a) and (g) of Title 42 of the United States Code, as amended by the Federally Supported Health Centers Assistance Act of 1995 (Public Law 104-73) provides that the FTCA is the exclusive remedy for tort claims against the United States.

5. This action is deemed to be an action against the United States under 42 U.S.C. § 233(c) because Defendants were acting within the scope of employment as employees of the United States at the time of the conduct alleged in the Complaint. *See Exhibit D* (Certification of Scope of Employment).

6. The United States District Courts have exclusive jurisdiction over tort actions filed against the United States under the FTCA. 28 U.S.C. § 1346(b).

7. Removal of this action to the federal district court is timely because under section 233(c), the action can be removed from state court to the federal district court any time before trial. *See, e.g., Estrella v. Yahav*, No. 15-CV-4286, 2016 WL 1230555, at *4 (D.N.J. Mar. 29, 2016). A trial has not been scheduled in

the State Action.

8. This Notice of Removal will be filed with the Clerk of the New Jersey Superior Court, Law Division, Morris County, and will be served on all parties in accordance with 28 U.S.C. § 1446(d). *See Exhibit E* (Letter to Clerk of New Jersey Superior Court).

9. The United States of America is substituted as a defendant in place of Defendants. *See* 42 U.S.C. § 233(c) and (g).

Dated: Newark, New Jersey
June 22, 2020

CRAIG CARPENITO
United States Attorney

By: *s/Frances C. Bajada*
FRANCES C. BAJADA
Assistant United States Attorney